

# Clewer Green CE Aided First School

## *Inspiring Children*

*'If my teacher believes in me I know I can do it'* – Mia, Year 4

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*Vision: Every child has been blessed by God with unique potential. Our vision for Clewer Green is to inspire and nurture children in a safe, happy and caring Christian community, where everyone is valued and enjoys learning.*

## **FREEDOM OF INFORMATION POLICY**

### **Aim**

Our aim, in line with our distinctively Christian values, is for every child to have the support that they need, and by example and direct teaching, promote a Christian ethos within the school whilst recognising that not all of its members will be practising Christians.

### **Introduction**

Clewer Green CE Aided First School is committed to the Freedom of Information Act and to the principles of accountability and the general right of access to information. This policy outlines our response to the Act and a framework for managing requests.

### **Background**

The school recognises that under the Freedom of Information Act (FoI), any person (the enquirer) has a legal right to ask for access to information held by the school. The enquirer is entitled to be told whether the school holds the information, and to receive a copy, subject to certain exemptions.

The information which the school routinely makes available to the public is included in the Publication Scheme which can be obtained from the FoI Publication Scheme. Requests for other information will be dealt with in accordance with the statutory guidance.

As requests under FoI can be addressed to anyone in the school, all staff will be made aware of the process for dealing with requests.

The school will respond to all requests, telling the enquirer whether or not the information is held, and supplying any information that is held, except where exemptions apply.

The school will respond to each request within 20 working days excluding school holidays.

### **Scope**

If any element of a request to the school includes personal or environmental information, these will be dealt with under the Data Protection Act (DPA) or Environmental Regulations (EIR). Any other information is a request under FoI, and must be dealt with accordingly.

Requests for information about anything relating to the environment – such as air, water, land, the natural world or the built environment and any factor or measure affecting these – are covered by

the EIR. They also cover issues relating to Health and Safety. Requests under EIR are dealt with in the same way as those under FoI, but unlike FoI requests, they do not need to be written and can be verbal.

## **Obligations and Duties**

The school recognises its duty to:

- provide advice and assistance to anyone requesting information. The school will respond to straightforward verbal requests for information, and will help enquirers to put more complex verbal requests into writing so that they can be handled under the Act.
- tell enquirers whether or not we hold the information they are requesting (the duty to confirm or deny), and provide access to the information the school hold in accordance with the procedures laid down here (FoI Dealing with Requests).

## **Publication Scheme**

Clewer Green CE Aided First School has adopted the Model Publication Scheme for Schools approved by the Information Commissioner.

The Publication Scheme (Freedom of Information Access List) is published on our website and the materials it covers will be readily available from the office.

## **Dealing with Requests**

The school will respond to all requests in accordance with the procedures laid down here (FoI dealing with requests). The school will ensure that all staff are aware of the procedures.

## **Exemptions**

The school will consider if information requested is subject to exemption. The exemptions are listed in Appendix 1.

When the school wishes to apply a qualified exemption to a request, it will invoke the public interest test procedures to determine if public interest in applying the exemption outweighs the public interest in disclosing the information.

The school will maintain a register of requests where we have refused to supply information, and the reasons for the refusal. The register will be retained for 5 years.

## **Public Interest Test**

The school will apply the Public Interest Test before any qualified exemptions are applied. Unless it is in the public interest to withhold information, it will be released. For information on applying the Public Interest Test see Appendix 2.

## **Charging**

The school will respond to most requests free of charge, and only charge where significant costs are incurred. The school may choose to charge an additional administration fee, when significant costs are incurred, of £25 for complying with requests for information under FOI. The enquirer will be notified of the charge before information is supplied.

The school reserve the right to refuse to supply information where the cost of doing so exceeds the statutory maximum.

## **Responsibilities**

The Governing body has delegated the day-to-day responsibility for compliance with the FoI to the Headteacher. The Headteacher is the delegated person to deal with all FoI requests.

## **Complaints**

Any comments or complaints will be dealt with through the school's normal complaints procedure. The school will maintain records of all complaints and their outcome.

If on investigation the school's original decision is upheld, then the school has a duty to inform the complainant of their right to appeal to the Information Commissioner's office.

FOI/EIR Complaints Resolution  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

## **Review**

Revised May 2017  
Review date May 2020

\_\_\_\_\_ Date \_\_\_\_\_

Alison Finnis, Chair of Governors

## **Appendix 1**

### **Outline List of Exemptions Under the Freedom of Information Act**

Exemptions provide discretionary exceptions to the public's right of access to information held by the School under the terms of the Freedom of Information Act 2000. There are 23 exemptions provided under the Act that are either absolute or conditional in their effect, which are as follows:

#### ***Absolute Exemptions***

Exemptions that are wholly exempt in their application include:

- Information accessible to the applicant by other means (s21)
- Information supplied by, or relating to, bodies dealing with security matters (s23)
- Information relating to Court records (s32)
- Parliamentary privilege (s34)
- Information provided in confidence (s41) and
- Information prohibited from disclosure by any other piece of legislation or enactment (s44)

*Exemptions that are absolute only in part include:*

- Information that would prejudice the effective conduct of public affairs (s36), and
- Personal information (s40)

#### ***Conditional Exemptions***

*Exemptions requiring the application of a public interest test include:*

- Information intended for future publication (s22)
- National Security (s24)
- Investigations and proceedings conducted by public authorities (s30)
- Formulation of Government Policy (s35)
- Communications with Her Majesty and honours (s37)
- Health and Safety (s38)
- Environmental information (s39)
- Legal professional privilege (s42)

*Exemptions requiring the application of a public interest test and/or a prejudice test include:*

- Defence (s26)
- International relations (s27)
- Relations within the United Kingdom (s28)
- The economy (s29)
- Law enforcement (s31)
- Audit Functions (s33)
- Commercial Interests (s43)

## Appendix 2

### Department of Justice Public Interest Test Guidance.

#### *Absolute and qualified exemptions*

The Freedom of Information Act contains exemptions from the right of access to information to balance the right to know with the delivery of effective government. Some exemptions are 'absolute', that is, if the exemption applies then there is no obligation under the Act to release the requested information (although there may be scope, or obligations, for other reasons outside the Act to do so). The absolute exemptions are listed in section 2(3) of Freedom of Information Act.

Other exemptions are subject to an assessment of the balance of the public interest for and against disclosure; these exemptions are often referred to as 'qualified', because they do not justify withholding information unless, on a proper assessment, the balance of the public interest is against disclosure.

Where a qualified exemption applies to information that has been requested, public authorities are required to carry out a 'public interest test'. This requires weighing the public interest considerations in favour of release of the information and the public interest considerations in favour of protecting it from disclosure. If the public interest in withholding the information outweighs the public interest in disclosure, it should be withheld.

#### *General and special public interest in disclosure*

The starting point in considering the balance of the public interest is that there is a general public interest in disclosure. The existence of the Freedom of Information Act, and other access regimes, is testimony to that. In contrast, there is no general public interest in non-disclosure.

In the case of any particular qualified exemption, and the disclosure of any particular piece of information falling within it, there may well also be particular or special public interest considerations in favour of disclosure. For example, there may be a public interest in the transparency of particular process, such as in law enforcement.

However, the right to know must be balanced against the need to enable effective government. Therefore, for each qualified exemption there may be particular public interest considerations in favour of refusing the request.

The terms of the exemptions in the Act give broad clues to what those particular public interest considerations might be (some, such as section 36, give more specific indications of the relevant public interest considerations likely to be engaged). However, it is not sufficient simply to assert a public interest in non-disclosure. The relevance of the particular considerations to the circumstances of an individual request and the assessment of the balance of the public interest which has been carried out must be properly analysed and supported. The detailed guidance on exemptions sets out the types of public interest considerations that are likely to be relevant in the context of considering the use of each exemption.

The public interest test need not focus solely on the particular considerations relevant to the specific exemption(s) engaged. Section 2(2) requires that 'all the circumstances of the case' should be taken in to account when determining whether to maintain a qualified exemption. Therefore, in considering

a request for information that engages section 29 (the economy), any damage to the UK's economic interests resulting from disclosure would be considered, but wider considerations, such as any potential prejudice to the free and frank exchange of views, should also be taken into account.

A decision, on the balance of the public interest, not to disclose is subject to challenge by applicants who may ask the Information Commissioner to review the decision to withhold information.

Ultimately, this could also become a matter for the courts. The Act does not make government the sole, or supreme, arbiter of the public interest. However, the better the decision-making on the public interest, the better it will withstand such challenge.

The assessment of the balance of the public interest will change over time. This is so in two ways. The assessment of the public interest is a judgement in which fact, policy and law are all involved to some degree. It is inherently dynamic. The law and practice of the public interest balance will develop in decisions made within government, the Tribunal and the courts.

Furthermore, the balance of the public interest may shift as the information becomes older. In any case, many qualified exemptions may not be used when the information is more than 30 years old.

The application of Freedom of Information Act to 'historical records' (that is, those over 30 years old) and records that have been transferred to the Public Records Office or other places of deposit is governed by sections 62 to 67 of the Freedom of Information Act.

The balance of the public interest therefore needs to be reviewed afresh in response to new requests for the information. Judgements about disclosure are not about whether it should take place in a general sense but whether it is appropriate for it to happen at the particular time that a request is received.

The Act makes specific procedural provision for the handling of cases which require an assessment of the balance of the public interest to be made. Under section 10(1) of the Act, there is a general time limit of 20 working days for making a response to a request for information. However, section 10(3) permits a public authority to take an additional, though 'reasonable', period of time to reach its final decision in those cases where a 'qualified' exemption is engaged and the balance of the public interest must be assessed.

The department must, however, tell the applicant within the initial 20-day period which exemption or exemptions it believes apply to the information requested, and give an estimate of the date by which the decision will have been made. Such extensions should generally avoid exceeding 20 working days. Where you wish to rely on section 36, a 'qualified person' must form the 'reasonable opinion' that the exemption applies.